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**IN THE
COURT OF APPEALS OF INDIANA**

TIFFANY EDWARDS,)	
)	
Appellant-Defendant,)	
)	
vs.)	No. 02A04-0611-CR-643
)	
STATE OF INDIANA,)	
)	
Appellee-Plaintiff.)	

APPEAL FROM THE ALLEN SUPERIOR COURT
The Honorable John F. Surbeck, Jr., Judge
Cause No. 02D04-0506- FC-99

February 26, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAKER, Judge

Appellant-defendant Tiffany N. Edwards appeals her conviction for Forgery,¹ a class C felony, claiming insufficiency of the evidence. Specifically, Edwards maintains that her conviction must be vacated because the State failed to prove intent to defraud. Finding no error, we affirm the judgment of the trial court.

FACTS

Eric Gibson was a confidential informant for the Fort Wayne Police Department and was acquainted with Edwards. On January 13, 2005, Gibson was fitted with a recording device and surveilled by two police officers as he entered Edwards's tax preparation business in Fort Wayne.

At some point, Gibson asked Edwards to print a check for him, and he supplied her with his name and address. Edwards then printed a check with the number 129549 that was drawn on the account of Personal Home Health Care (PHHC) in Fort Wayne. The check also bore the name of a banking institution that was abbreviated as "Bethlehem Empl Fcu," that was purportedly located at "737 North Hobart Road, Hobart, Indiana." Ex. 1. Gibson took the check from Edwards, and several police officers followed him to a local Wal-Mart where he attempted to cash the check. However, Gibson returned to Edwards's office and informed her that he was unable to cash the check. When Edwards offered to print him another check, Gibson declined.

Approximately twelve days later, police officers executed a search warrant at Edwards's office. Among the items recovered was the check that Edwards had issued to

¹ Ind. Code § 35-43-5-2.

Gibson. Thereafter, the State charged Edwards with forgery. The information alleged that

On or about the 13th day of January, 2005, in the County of Allen and in the State of Indiana, said defendant, Tiffany N. Edwards, did with the intent to defraud, make or utter a written instrument, to wit: a check, in such a manner that said written instrument purports to have been made by another person and/or by authority of one who did not give authority being contrary to the form of the statute in such case made and provided.

Appellant's App. p. 13. The State also charged Edwards with being a habitual offender as the result of her prior convictions for fraud on a financial institution in September 1996 and aiding in theft in March 2002. However, the habitual offender count was subsequently dismissed on April 18, 2006.

At a bench trial that commenced on June 19, 2006, Gibson testified that he never worked for PHHC, that PHHC did not owe him any money when Edwards printed the check, and that he had no knowledge of an entity by the name of PHHC. Additionally, a Fort Wayne police officer testified that the address listed on the check for PHHC did not exist. The officer also stated that he had searched for the business in the vicinity near the address that was printed on the check. Finally, the officer testified that the address for the Bethlehem Credit Union listed on the check was incorrect.

Edwards was found guilty as charged, and the trial court noted that it inferred that Edwards lacked the authority to print the check in light of Gibson's testimony that PHHC did not owe him any money. The trial court further observed that businesses do not give authority to write checks for funds that are not owed. Edwards was subsequently sentenced to an eight-year term of imprisonment, and she now appeals.

DISCUSSION AND DECISION

In reviewing Edwards's challenge to the sufficiency of the evidence, we do not reweigh the evidence or judge the credibility of the witnesses. Jordan v. State, 656 N.E.2d 816, 817 (Ind. 1995). We look to the evidence and the reasonable inferences therefrom that support the verdict. Id. The conviction will be affirmed if evidence of probative value exists from which the fact finder could find the defendant guilty beyond a reasonable doubt. Id. In other words, we will affirm unless "no rational fact finder" could have found the defendant guilty beyond a reasonable doubt. Clark v. State, 728 N.E.2d 880, 887 (Ind. Ct. App. 2000). We also note that a criminal conviction may be based solely on circumstantial evidence. Moore v. State, 652 N.E.2d 53, 55 (Ind. 1995). Even when the evidence is entirely circumstantial, the evidence need not exclude every reasonable hypothesis of innocence. Id. It is enough if an inference reasonably tending to support the verdict can be drawn from the circumstantial evidence. Id.

Forgery requires a showing that: "A person, who, with intent to defraud, makes or utters a written instrument in such a manner that it purports to have been made: (1) by another person; (2) at another time; (3) with different provisions; or (4) by authority of one who did not give authority." I. C. § 35-43-5-2. In this case, the evidence presented at trial established that PHHC did not exist at the address listed on the check, and the police officers were unable to locate the business. Tr. p. 46. Hence, the evidence supports a reasonable inference that PHHC was a fictitious entity for which Edwards did not have the authority to print checks. Moreover, Gibson testified that he had never worked for a business by the

name of PHHC, and he was not owed any money from an entity by that name. Id. at 25. As the trial court observed, this evidence supported a reasonable inference that Edwards did not have the authority to print a check for Gibson because businesses do not authorize the issuance of checks for funds that are not owed.

Although Edwards maintains that the State did not provide sufficient evidence that she was without the authority to print the check and lacked the intent to defraud because no direct evidence was presented from PHHC or from the credit union, the State was not required to present such evidence. See Moore, 652 N.E.2d at 55. In our view, the evidence that tended to show that PHHC was a fictitious company and/or that Gibson was not owed any money by the company supported the trial court's conclusion that Edwards lacked the authority to issue the check.

Additionally, we reject Edwards's reliance on State v. White, 533 N.E.2d 1273 (Ind. Ct. App. 1989), where this court affirmed the trial court's grant of the defendant's motion for judgment on the evidence on two counts of forgery that the State had brought against White.

The facts of that case were as follows:

White was employed at the Evansville Livestock Market ("ELM"), and it was his duty to supervise the office every Tuesday while ELM conducted its cattle auction. [In] November, 1986, ELM purchased some cattle in Illinois through two of its field representatives. Cattle sold through a livestock market customarily brings a lower price than if sold by an individual. Michael Baker, the ELM general manager, adopted the fictitious name, "John Long" to market the cattle. Using information obtained from the dock receipts, Maureen Veach, another ELM employee, made out the two ELM checks in question to "John Long." White's first contact with the subject checks occurred after the auction; he asked Baker, "Is he gonna come pick these up?" Baker said, "No, they're our cattle. There is no John Long. Put it in the bank." White

endorsed both checks by signing the fictitious name “John Long” and deposited the checks into ELM’s bank account.

Id. at 1274. In affirming the trial court, we determined that the defendant was entitled to a judgment on the evidence because the State failed to introduce any evidence that he endorsed the checks with the intent to defraud. Id. In essence, we agreed with the trial court that no fraud could have occurred when White endorsed the checks and deposited the money into the business account, as the funds remained in the control of their rightful owner. Id. at 1275. Moreover, there was direct evidence in White that the business owner had authorized the issuance and endorsement of the check. Here, however, the evidence showed that the check was made out to Gibson, a third party, who admitted that PHHC did not owe him any money. Tr. p. 25. Hence, such evidence established the reasonable inference that, by printing the check, Edwards intended to deprive PHHC—assuming that such a business existed—the Wal-Mart, the credit union, or all three, of funds. As a result, Edwards’s challenge to the sufficiency of the evidence fails, and we decline to set aside the conviction.

The judgment of the trial court is affirmed.

DARDEN, J., and ROBB, J., concur.